

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AUTOMATED FACILITIES
MANAGEMENT CORPORATION
and TANGOPOINT.COM, INC.,

Plaintiffs/
Counter-defendants,

v.

DPSI and IBM CORPORATION,

Defendants/
Counterclaimants.

8:08CV502

MEMORANDUM AND ORDER

This matter is before the court on the objection by plaintiffs/counter-defendants Automated Facilities Management Corporation and TangoPoint.com, Inc. (hereinafter “plaintiffs”), Filing No. [96](#), to an order of the magistrate judge, Filing No. [90](#), granting defendant’s motion to compel production of documents, Filing No. [78](#). Defendant IBM filed a motion to compel the plaintiffs to produce documents including marketing, research and development materials and information relating to the operation of the product, persons involved, sale and commercialization of the product, profitability, number sold, customer lists, and proposed transfer rights.

The magistrate judge found that plaintiffs had failed to provide timely responses to discovery and had disregarded their duty under the Federal Rules. The magistrate judge ordered production of the documents. Further, the magistrate judge found the plaintiffs had not provided any justification for the failure to respond, and ordered the plaintiffs to show cause why sanctions should not be imposed.

On review of a decision of the magistrate judge on a pretrial matter, the district court may set aside any part of the magistrate judge's order that it finds is clearly erroneous or contrary to law. [28 U.S.C. § 636](#) (b)(1)(A); Fed. R. Civ. P. 72(a); [In re Lane, 801 F.2d 1040, 1042 \(8th Cir. 1986\)](#). A magistrate judge is afforded broad discretion in the resolution of nondispositive discovery disputes. [Bialas v. Greyhound Lines, Inc., 59 F.3d 759, 764 \(8th Cir. 1995\)](#).

The court has reviewed the documents submitted in support of and opposition to the plaintiffs' objection and finds no clear error of fact or law by the magistrate judge. Accordingly, the plaintiffs' objection to the magistrate judge's order is denied. The court finds the plaintiffs' response to the magistrate judge's order to show cause should be addressed by the magistrate judge in the first instance. Accordingly,

IT IS ORDERED that the plaintiffs' objection (Filing No. [96](#)) to the order of the magistrate judge (Filing No. [90](#)) is overruled.

DATED this 23rd day of June, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge

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